IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINETEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

WRIT PETITION NO: 16849 of 1994

Between:

1)Smt. Dasari Appayyamma W/o Polipalli,

2)Dasari Suryanarayana S/o Polipalli

3)Dasari Narasayyamma @ Narasayya D/o Polipalli

4)Malla Appayyamma W/o Appa Rao

5)Budi Appa Rao S/o Atchibabu

(All are residing at Adivivaram village, Visakhapatnam District)

.... PETITIONER

AND

1) The District Collector, Visakhapatnam

2) The District Social Welfare Officer (Land Acquisition), Visakhapatnam

3) The II Addl. Subordinate Judge, Visakhapatnam.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that

in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, in the nature of Mandamus, directing the respondents herein to issue fresh Section 4(1) Notification, in respect of the land bearing Survey Nos.83/3 and 83/4 of an extent of Ac.2.21 cents situated at Adivivaram villege, Visakhapatnam District, since the notification issued already under Section 4(1) and Section 6 Draft declaration, published in the Visakhapatnam District Gazette dated 10.10.1997, and quashed in W.P.No.6586 of 1982 dated 23.9.1992, and pass such further or other orders as this Honourable Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR. SYED SHAREEF AHMED

Counsel for the Respondent No.1: G.P for Revenue

Counsel for the Respondent No.2: G.P for Social Welfare

The Court made the following:

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O R D E R: -

This writ petition filed by the petitioners seeking a Writ of *Mandamus* directing the respondents to issue a fresh notification under Section 4(1) of the Land Acquisition Act, 1894, (for short 'the Act') and to acquire the land belonging to them, in my considered opinion, is totally misconceived. The same petitioners earlier filed W.P.No.6586 of 1982 challenging the notifications issued under Sections 4(1) and 6 of the Act, published in the Visakhapatnam District Gazette, dated 10.10.1977. The said writ petition was allowed by this Court vide order dated 23.9.1982, following the judgment of this Court in **K.VAMANA RAO v. LAND ACQUISITION OFFICER**. It appears that in the interregnum, even though compensation amounts were deposited in the Court, they were not paid to the claimants in view of a n *interse* dispute. Since the notification itself was quashed, the question of payment of any amount either to the petitioners or to any other claimants does not arise. The same petitioners turned round and now seek a writ of *Mandamus* from this Court to compel the respondents to acquire their lands. The respondents are not under any statutory obligation or duty to acquire lands of the petitioners and pay compensation to them.

The writ petition is totally misconceived. The writ petition shall accordingly stand dismissed without any order as to costs.

Dt:19.08.2004 Sd/-

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1) The District Collector, Visakhapatnam

2) The District Social Welfare Officer (Land Acquisition), Visakhapatnam

3) The II Addl. Subordinate Judge, Visakhapatnam.

4) 2 CCs to G.P for Social Welfare, High Court Buildings, Hyd.

5) 2 CCs to G.P for Revenue, High Court Buildings, Hyderabad(OUT)

6) 2 CD copies

RAR/PV